

REMARKS / DISCUSSION OF ISSUES

Claims 1-14 are pending in the application. Claim 10 is amended to correct a typographical error. No new matter is added, and additional search is not required.

The Office action rejects:

claims 1-4, 6, and 9-14¹ under 35 U.S.C. 103(a) over Toia et al. (USP 6,521,014, hereinafter Toia), Nagasawa et al. (USP 5,432,399, hereinafter Nagasawa), and Deguchi (JP 2004-220880);

claim 5 under 35 U.S.C. 103(a) over Toia, Nagasawa, Deguchi, and Tu (USP 6,586,878);

claim 7 under 35 U.S.C. 103(a) over Toia, Nagasawa, Deguchi, and Barthelmes et al. (USP 5,037,342); and

claim 8 under 35 U.S.C. 103(a) over Toia, Nagasawa, Deguchi, and Niimi (USPA 2002/0060520). The applicants respectfully traverse these rejections.

In KSR Int'l. Co. v. Teleflex, Inc., the Supreme Court noted that the analysis supporting a rejection under 35 U.S.C. 103(a) should be made explicit, and that it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed:

"Often, it will be necessary ... to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an **apparent reason** to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis **should be made explicit.**" KSR, 82 USPQ2d 1385 at 1396 (emphasis added).

The applicants respectfully maintain that, without the teachings of the applicants' disclosure, there is no apparent reason to combine Toia, Nagasawa, and Deguchi in the fashion claimed by the applicants.

¹ The Office action formally states that claims 1-4 and 11-14 are rejected; however, the subsequent text addresses claims 6, 9, and 10. In the interest of advancing prosecution, the applicants assume that the list of claims in the formal rejection was in error.

Nagasawa and Deguchi teach high-pressure discharge lamps, and do not teach the use of a getter in such lamps. Toia teaches a particular set of getter materials, and notes that this getter can be used in fluorescent lamps. The Office action asserts that one of skill in the art would combine the teachings of Toia, Nagasawa, and Deguchi, because the components of Nagasawa and Deguchi "provide the well known benefit of powering a discharge lamp to produce light". The applicants respectfully disagree with this assertion, because providing components for powering a discharge lamp to produce light has no bearing on an apparent reason that one would combine these components with the getter material of Toia.

As is well known in the art, the construction and principles of operation of a fluorescent lamp (Toia's referenced lamp) is not related to the construction and principles of operation of a high-pressure discharge lamp. There is no reason to assume that the use of a getter in a fluorescent tube has any relevance to the use of a getter in a high-pressure discharge lamp.

Toia teaches that the getter "has the purpose of removing oxygen, water, hydrogen, and other gases" from fluorescent tubes that are filled with noble gases at pressures of a few tens of millibars, "thus maintaining the suitable atmosphere for the lamp functioning." Based on Toia's teachings, it is unknown whether placing a getter within the atmosphere that is used for the functioning of a high-pressure discharge lamp, as would be implied by the application of Toia to a high-pressure discharge lamp, would have any beneficial effect, and one of skill in the art would have no apparent reason to place Toia's getter within that atmosphere.

Further, the placement of a getter in a high-pressure discharge lamp in the fashion taught by the applicants has no bearing on providing a "suitable atmosphere for the lamp functioning", because the atmosphere that is used for the functioning of the discharge lamp is not the atmosphere within which the applicants teach that the getter should be placed. Correspondingly, one of skill in the art would have even less of a reason to place Toia's getter in the envelope space outside of the functional inner space, absent the teachings of the applicants regarding the benefits that are achievable by such a placement.

Because the use of a getter in a fluorescent lamp provides no apparent reason for using a getter in a high-pressure discharge lamp, the applicants respectfully maintain that there is no apparent reason to apply the teachings of Toia to the teaching of Nagasawa and Deguchi. Accordingly, the applicants respectfully maintain that the rejections of claims 1-14 under 35 U.S.C. 103(a) that rely on a combination of Toia, Nagasawa, and Deguchi is unfounded, and should be withdrawn.

Additionally, the applicants respectfully note that Deguchi teaches that the outer envelope contains 'atmosphere' at normal atmospheric pressure, and Nagasawa does not address the atmospheric content of the outer envelope. In particular, neither Nagasawa nor Deguchi indicate that the outer envelope space is evacuated, or even air-tight.

Absent an evacuated space, or at least an air-tight space that is relatively free of the material that is intended to be captured by the getter, the placement of a getter in such a non specific space serves no purpose. As soon as the getter captures its maximum volume of the targeted capture material, or without the assurance that the space does not initially contain more than this maximum volume, the atmosphere will not be cleared of the target capture material.

Accordingly, absent a teaching by Deguchi and Nagasawa that the outer envelope space is suitably sealed and relatively devoid of the target capture material, one of skill in the art would have no apparent reason to add Toia's getter to Deguchi and Nagasawa, as asserted in the Office action. Accordingly, the applicants respectfully maintain that the rejections of claims 1-14 under 35 U.S.C. 103(a) that rely on a combination of Toia, Nagasawa, and Deguchi is unfounded, and should be withdrawn.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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